1952

K

File No. B. Housing Boards 1/52

Legal Deptt

B BRANCH

Subject:— L.A Bill No XXVII of 1952

A Bill to amend the Bombay Housing Boards Act 1948

Bom Act No XXII of 1952

File No. B. Housing Boards 1/52

893-R

Gen. 194 e.

Legal Dept.

In place of the Department's draft at pages 15 to

a revised draft Bill is sent herewith.

2. The Bill does not require any sanction or recommendation. After it is passed it will have to be reserved for the consideration of the President with reference to article 254(2).

Id/- J.M.D. 20/2

Secretary to Government.

U.R. to L. & H.D. No. 3209, dated the 21st February 1951.

KAN/29-6.
4 c.

DL/47

Legal Department.

In place of the Department's draft at pages 15 to 18 ante, a revised draft Bill is sent herewith.

2. The Bill does not require any sanction or recommendation. After it is passed it will have to be reserved for the consideration of the President with reference to article 254(2).

Id/- J.A.D. 20/2

Secretary to Government.

U.R. to L. & A.D. No. 3209, dated the 21st February 1951.

KAN/29-6.
4 c.

DJ/417

Office of the R.L.A.

The view taken in para 4 of Labour and Housing Department note dated 14-11-1951 at page 16 ante is correct.

2. It would be entirely wrong to have a consolidated Bill for the displaced persons premises and the premises of the Housing Board. The two proposals although they appear to be similar, fall under different entries in the legislative lists given in the Seventh Schedule to the Constitution. The first proposal for the displaced persons premises is relatable to entry 36 in List II (i.e. Works, Lands and Buildings vested in or in the possession of the State) and entry 27 in List III in the Seventh Schedule (i.e. Relief and Rehabilitation of displaced persons). Housing Board is a separate body corporate created under entries 5 and 6 in List II and the legislation for the Board's premises will fall under entry 18 in List II read with these two entries 5 and 6. The reasons for enabling the Housing Board to exercise summary powers in regard to eviction and recovery of rent will be quite distinct from those on which the powers of Government in regard to displaced persons will have to be supported. The consolidation of two measures is entirely inappropriate. It is, therefore, necessary to have two separate Bills.

3. The alternative draft Bill at pages 23 to 29 ante for amending the Housing Board Act as slightly amended is in order.

Id/- J.R.D. 19/12
Remembrancer of Legal Affairs.

U.R. to Labour and Housing Department No. 20274 dated the 19th December 1951.

KAH/29-6.
4 c.

Legal Department.

A revised consolidated draft Bill is sent herewith.

Clause 6. New sections 53A and 53B have been amended on the lines of clause 4 and 5 of L.A.Bill No. XIV of 1952 (Bombay Displaced Persons Premises Control and Regulation~~s~~ Bill), to provide that the service of notice may be by post, by affixing a copy on the premises or in other manner prescribed by rules.

In section 53A, a new sub-section (3) has been inserted to provide that where a person has been asked to vacate for arrears of rent or for contravention of terms of the lease, the competent authority may cancel its order if such person pays the arrears of rent or complies with terms of the lease, as the case may be, within a reasonable time. As summary powers of eviction are being given to the competent authority such a provision appears desirable to mitigate the hardships of the tenants in genuine cases. Similar provisions are found in sections 114 and 114-A of the Transfer of Property Act, 1882 and section 12(3) of the Bombay Rents, Hotels and Lodging House Rates Control Act, 1947.

2. The subject matter of the Bill falls under entries 3,5,6,~~2~~18,64 and 65 in List II and entries 6 and 7 in List III in the Seventh Schedule to the Constitution. The Bill does not require sanction or recommendation. After it is passed, the Bill will have to be reserved for the consideration of the President with reference to article 254(2).

Id/- J.H.D. 12/6
Additional Secretary to Government.

U.R. to L & H.D. No.9783, dated the 12th June 1952.

KAH/29-6.
4 c.

No.16542/B
Legal Department,
Bombay Castle (Bombay No.1), 8th October1952.

From:

Shri J.A.Dhurandhar,
Additional Secretary to the Government of Bombay,
Legal Department.

To:

The Secretary to the Governor of Bombay.

Subject:- The Bombay Housing Board (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to the Governor ~~of~~ the authentic copy of the Bombay Housing Board (Amendment) Bill, 1952, which was read for the third time and passed passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 11th August 1952 and the 21st August 1952, respectively.

2. The subject-matter of the Bill ~~fallsx~~ under entries 3, 5, 18, 64 and 65 in List II and entries 6, 7 and 24 in List III in the Seventh Schedule to the Constitution of India. As the provisions of clause 6 of the ~~Billx~~ are repugnant to the provisions of the Transfer of Property Act, 1882 and the Payment of Wages Act, 1936, which are existing laws relating to matters enumerated in entries 6 and 24 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Consittuion of India.

3. I also forward herewith six copies of each of the items

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	:	Nos.1 and 2 and two copies of Item No.3 of the papers noted
2. Bill as read for the third time and passed by the Bombay Legislative Council.	:	
3. Extracts from the proceedings of the Bombay Legislative Assembly, dated the 9th and 11th August 1952 and of the Bombay Legislative Council dated the 21st August 1952.	:	

P.T.O.

in the margin.

The Bill was not referred to a Select Committee.

Yours faithfully,

Id/- J.R.D. 8/10

Additional Secretary to Government.

Copy forwarded with compliments to the

Secretary to the Government of Bombay, Public

Works Department.

KAN/29-6.
4 c.

No. GS.3247

Governor's Secretary's Office,
Bombay-4, October 20th 1952.

From

Shri S.B.Kulkarni, LAS,
Secretary to the Governor.

To

The Secretary to the Bombay Legislative Department,
Council Hall, Bombay 1.

Subject:- The Bombay Housing Board (Amendment) Bill, 1952.

Sir,

Referring to the Bombay Housing Board (Amendment) Bill, 1952, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on August 11 and 21, 1952, respectively, I am directed to state, for the information of the Speaker and the Chairman that as the provisions of clause 6 of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Payment of Wages Act, 1936, which are existing laws relating to matters enumerated in entries 6 and 24 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President vide article 254(2) of the Constitution of India. The Governor has accordingly been pleased under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

Sd. T.H.Barker,

for Secretary to the Governor.

No. GS. 3248

Governor's Secretary's Office,
Ganeshkhind, Poona 4, October 20 1952.

Copy forwarded with compliments for information to the Additional Secretary to Government, Legal Department, with reference to his letter, No.16542/B dated October 8, 1952.

Sd/- T.H.Barker

for Secretary to the Governor.

KAN/29-4.
4 c.

No. G.S. 3736

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to Government,
Legal Department, Bombay 1.

RAJ BHAVAN,

BOMBAY, 6

December 10, 1952.

Subject:- The Bombay Housing Board
(Amendment) Bill, 1952.

Sir,

In continuation of this office letter No. GS-3737 dated December 4, 1952, on the above mentioned subject, I am directed to forward herewith the authentic copy of the Bombay Housing Board (Amendment) Bill, 1952, with the President's assent signified thereon. The Government of India have, however, expressed the hope that, if that Government evolve an All-India Scheme for industrial housing and pass the necessary legislation, the Government of Bombay will undertake the necessary legislation to bring their Act in conformity with the requirements of the Central Legislation.

Yours faithfully,

Sd/-

Secretary to the Governor.

ACTS.

Publication of the Bombay Housing Board (Amendment) Act, 1952.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 20472/B
Bombay Castle, 6th December 1952.

Letter to the Secretary to the Governor, No.16542/45, dated the 8th October 1952.

Letter from the Secretary to the Governor, No.G.S.3737, dated the 4th December 1952.

"In continuation of this office endorsement No.GS.3715 dated December 2, 1952, on the above mentioned subject, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Housing Board (Amendment) Bill, 1952, on November 29, 1952."

RESOLUTION: The law should be published as Bombay Act No. XXXII of 1952 in the Bombay Government Gazette dated the 6th December 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Public Work Department.

By order of and in the name of the Governor of Bombay,

Sd/- S.W.DHURANDHAR,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a c of the Act and with a request that 30 Gazette copie of the Act may be forwarded to the Legal Department and 10 copies to the Public Works Department),
The Public Works Department,
* The Examiner of Books and Publications, } with a cop
The Bombay Legislature Department, } of the Act
The Director of Publicity, Bombay, }
The Liaison Officer for the Secretariat, Bombay. }

* With four extra copies of the Act.

KAM/29-6.
4 c.

Registered No. B-1

The

Bhay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 8TH JULY 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXVII OF 1952.

A Bill to amend the Bombay Housing Board Act, 1948.

Bom. LXIX of 1948.

WHEREAS it is expedient to amend the Bombay Housing Board Act, 1948, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Housing Board (Amendment) Act, 1952. *Short title.

Amendment of section 2 of Bom. LXIX of 1948.

2. In section 2 of the Bombay Housing Board Act, 1948, hereinafter referred to as the said Act,— Bom. LXIX of 1948.

(*1*) after clause (3), the following clause shall be inserted, namely :—

"(3A) 'Board premises' means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act ;";

(*2*) after clause (6), the following clause shall be inserted, namely :—

"(6A) 'competent authority' means any person authorised by the State Government by notification in the *Official Gazette* to perform the functions of the competent authority under Chapter V-A for such area as may be specified in the notification ;";

(*3*) after clause (10), the following clause shall be inserted, namely :—

"(10A) 'premises' means any building or part of a building and includes—

(*i*) gardens, grounds and out-houses, if any, apertaining to such building or part of a building, and

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;".

Amendment of section 7 of Bom. LXIX of 1948.

3. In section 7 of the said Act,—

(*1*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed";

(*2*) in sub-section (*4*), after the words "the remuneration" the words ", if any," shall be inserted.

Amendment of section 12 of Bom. LXIX of 1948.

4. In section 12 of the said Act,—

(*1*) after the words "a Secretary," the words "one or more Assistant Housing Commissioners and" shall be inserted ;

(*2*) after the words "the Secretary" the words ", any Assistant Housing Commissioner" shall be inserted.

Amendment of section 28 of Bom. LXIX of 1948.

5. To section 28 of the said Act, the following shall be added, namely :—

"The programme, the budget and the schedule of the staff so sanctioned shall be laid before each House of the State Legislature as soon as may be after the programme is published."

6. After Chapter V of the said Act, the following Chapter shall be inserted, namely :— Insertion of new Chapter VA in Bom. LXIX of 1948.

"CHAPTER VA.

Power to evict persons from Board premises.

53A. (*1*) If the competent authority is satisfied,— Power to evict certain persons from Board premises.

(*a*) that the person authorised to occupy any Board premises has, whether before or after the commencement of the Bombay Housing Board (Amendment) Act, 1952,—

(*i*) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the permission of the Board, the whole or any part of such premises, or

(*iii*) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(*b*) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within fifteen days of the date of the service of the notice.

(*2*) If any person refuses or fails to comply with an order made under sub-section (*1*), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(*3*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*iii*) of clause (*a*) of sub-section (*1*), within fifteen days of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (*2*), cancel its order made under sub-section (*1*) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

53B. (*1*) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (*i*) by post or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the same within such time as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue. Power to recover rent or damages as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed,

order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

Appeal.

53C. (*1*) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within fifteen days of the date of the service of the notice under section 53A or section 53B, as the case may be, prefer an appeal to the State Government :

Provided that the State Government may entertain the appeal after the expiry of the said period of fifteen days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(*3*) Where an appeal is preferred under sub-section (*1*), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

Bar of jurisdiction of Civil Courts.

53D. No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.".

Amendment of section 61 of Bom. LXIX of 1948.

7. To section 61 of the said Act, the following shall be added, namely :—

"Every such report shall be laid before each House of the State Legislature as soon as may be after it is published."

Amendment of section 66 of Bom. LXIX of 1948.

8. In section 66 of the said Act, in sub-section (*2*), after clause (*h*), the following clauses shall be inserted, namely :—

"(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served ;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A ;

(*hc*) the manner in which damages under section 53B may be assessed ;

(*hd*) the manner in which appeals may be preferred under section 53C and the procedure to be followed in such apppeals ;"

Insertion of new section 70A in Bom. LXIX of 1948.

9. After section 70 of the said Act, the following section shall be inserted, namely :—

Penalty for contravention of provisions of Chapter VA.

"70A. Any person who contravenes any provisions of Chapter VA or any order made thereunder or obstructs the lawful exercise of any power conferred by or under the said Chapter shall, on conviction, be punished with fine which may extend to one thousand rupees."

STATEMENT OF OBJECTS AND REASONS.

Section 7 (3) of the Bombay Housing Board Act, 1948, requires that the Chairman of the Board shall be a whole time member of the Board. This provision precludes appointment of eminent persons from business life possessing wide experience as Chairman of the Board since such persons are generally connected with many other bodies, Government, however, considers that it is desirable not to exclude the field of captains of business for appointment to the post of the Chairman of the Bombay Housing Board which is a statutory business corporation, particularly when the person selected is in a position to devote all the time necessary for the Board's work and to offer his services in honorary capacity. It is, therefore, proposed to amend sub-section (3) of section 7 of the Act so as to allow Government to make such appointments.

Under the proviso to section 12 of the Bombay Housing Board Act, 1948, the appointment of Secretary and the Housing Commissioner and any other officer whose salary exceeds Rs. 1,000 p. m. shall be subject to the previous approval of the Government. The intention underlying the proviso was that Government's previous approval should be obtained for appointments of Assistant Housing Commissioners also even if they drew an initial salary of rupees one thousand or less per mensem. This is not explicit from the present provision and therefore it is proposed to amend the proviso to section 12 of the Act.

In paragraph 11 of the Report of the Public Accounts Committee on the Appropriation Accounts of the Government of Bombay for the year 1948-49 and the Audit Report thereon, the Committee has expressed the view that budgets of such bodies as Boards and Corporations established by Government as also the annual report summarising their activities during the year including the financial results thereof should be statutorily required to be placed before the Legislature every year. The proposed amendments to sections 28 and 61 seek to implement the recommendation of the aforesaid Committee.

The arrears of rent in respect of the tenements of the Bombay Housing Board are over Rs. 4 lakhs. In paragraph 31 of the Report of the Public Accounts Committee on the Appropriation Accounts of the Government of Bombay for the year 1948-49 and the Audit Report thereon, the Committee had expressed the view that it was essential that vigorous steps should be taken to recover these arrears of rent, if necessary, by the enactment of suitable legislation. The Bombay Housing Board has taken all action possible to recover the arrears through suits and distress warrants. In spite of this, the arrears are growing especially because in some colonies of the Board, namely, Sion-Dharavi and I. R. B. S. D., Borivli, most of the tenants have stopped payment of rent altogether for the past several months. The Housing Board cannot manage its estates under the ordinary law like other private landlords, because the Housing Board's tenants are taken on the lottery system without too detailed check on their financial capacity to pay rents, and the estates which are raised by Government funds are of enormous proportions. The Board cannot, therefore, be compared with private landlords. Loans advanced by Government to the Bombay Housing Board for direct construction of tenements under the Housing programme of Government are repayable with interest charges to Government at regular intervals. The only revenues of the Board from which it would be able to repay Government loans are those accruing from monthly rents. If arrears of rent cannot be recovered regularly, the Board will be unable to repay Government

loans and interest thereon and ultimately public revenues would suffer. In the absence of any effective powers with the competent authorities of the Bombay Housing Board, early recovery of arrears is not possible. Besides, the Board also wants statutory powers of summary inquiry and eviction of unauthorised occupants so that it may be able to take quick and effective action against them. Filing of suits against unauthorised tenants involves a very lengthy process and a lot of revenue may also be lost. It is, therefore, necessary to arm competent authorities with effective powers of summary inquiry and eviction on the lines of the Central Act XXVII of 1950, namely, "The Government Premises (Eviction) Act, 1950."

Dated the 3rd July 1952.

(Signed) G. D. TAPASE.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 7th July 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXVII OF 1952.

A Bill to amend the Bombay Housing Board Act, 1948.

(As read for the third time and passed by the Legislative Assembly on the 11th August 1952.)

Bom. LXIX of 1948.

WHEREAS it is expedient to amend the Bombay Housing Board Act, 1948, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Housing Board (Amendment) Act, 1952. Short title.

MO-III Bk Hb 189

Amendment of section 2 of Bom. LXIX of 1948.

2. In section 2 of the Bombay Housing Board Act, 1948, hereinafter referred to as the said Act,— Bom. LXIX of 1948.

(*1*) after clause (3), the following clause shall be inserted, namely :—

"(3A) 'Board premises' means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act ; " ;

(*2*) after clause (6), the following clause shall be inserted, namely :—

"(6A) 'competent authority' means any person authorised by the State Government by notification in the *Official Gazette* to perform the functions of the competent authority under Chapter V-A for such area as may be specified in the notification ; " ;

(*3*) after clause (10), the following clause shall be inserted, namely :—

"(10A) 'premises' means any building or part of a building and includes—

(*i*) gardens, grounds and out-houses, if any, appertaining to such building or part of a building, and

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ; ".

Amendment of section 7 of Bom. LXIX of 1948.

3. In section 7 of the said Act,—

(*1*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed ";

(*2*) in sub-section (*4*), after the words "the remuneration" the words ", if any," shall be inserted.

Amendment of section 12 of Bom. LXIX of 1948.

4. In section 12 of the said Act,—

(*1*) after the words "a Secretary," the words "one or more Assistant Housing Commissioners and " shall be inserted ;

(*2*) after the words "the Secretary" the words ", any Assistant Housing Commissioner " shall be inserted.

Amendment of section 28 of Bom. LXIX of 1948.

5. To section 28 of the said Act, the following shall be added, namely :—

"The programme, the budget and the schedule of the staff so sanctioned shall be laid before each House of the State Legislature as soon as may be after the programme is published."

6. After Chapter V of the said Act, the following Chapter shall be inserted, namely :— Insertion of new Chapter VA in Bom. LXIX of 1948.

"CHAPTER VA.

Power to evict persons from Board premises.

Power to evict certain persons from Board premises.

53A. (*1*) If the competent authority is satisfied,—

(*a*) that the person authorised to occupy any Board premises has, whether before or after the commencement of the Bombay Housing Board (Amendment) Act, 1952,— Bom. of 1952.

(*i*) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the permission of the Board, the whole or any part of such premises, or

(*iii*) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(*b*) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

(*2*) If any person refuses or fails to comply with an order made under sub-section (*1*), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(*3*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*iii*) of clause (*a*) of sub-section (*1*), within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (*2*), cancel its order made under sub-section (*1*) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Power to recover rent or damages as arrears of land revenue.

53B. (*1*) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (*i*) by post or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the same within such time not less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

Rent to be recovered from deductions from salary or wages in certain cases.

53BB. (*1*) Without prejudice to the provisions of section 53A, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(*2*) On the execution of such agreement, the State Government or a local authority, as the case may be, shall, if so required by the Board by requisition in writing, make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

Appeal.

53C. (*1*) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within one month of the date of the service of the notice under section 53A or section 53B, as the case may be, prefer an appeal to the State Government:

Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(*3*) Where an appeal is preferred under sub-section (*1*), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

Bar of jurisdiction of Civil Courts.

53D. No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter."

Amendment of section 61 of Bom. LXIX of 1948.

7. To section 61 of the said Act, the following shall be added, namely :—

"Every such report shall be laid before each House of the State Legislature as soon as may be after it is published."

Amendment of section 66 of Bom. LXIX of 1948.

8. In section 66 of the said Act, in sub-section (*2*), after clause (*h*), the following clauses shall be inserted, namely :—

"(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A;

(*hc*) the manner in which damages under section 53B may be assessed;

(*hd*) the manner in which appeals may be preferred under section 53C and the procedure to be followed in such appeals;"

Insertion of new section 70A in Bom. LXIX of 1948.

9. After section 70 of the said Act, the following section shall be inserted, namely :—

Penalty for obstructing exercise of powers under Chapter VA.

"70A. Any person who obstructs the lawful exercise of any power conferred by or under Chapter VA shall, on conviction, be punished with fine which may extend to one thousand rupees."

STATEMENT OF OBJECTS AND REASONS.

Section 7 (*3*) of the Bombay Housing Board Act, 1948, requires that the Chairman of the Board shall be a whole time member of the Board. This provision precludes appointment of eminent persons from business life possessing wide experience as Chairman of the Board since such persons are generally connected with many other bodies, Government, however, considers that it is desirable not to exclude the field of captains of business for appointment to the post of the Chairman of the Bombay Housing Board which is a statutory business corporation, particularly when the person selected is in a position to devote all the time necessary for the Board's work and to offer his services in honorary capacity. It is, therefore, proposed to amend sub-section (*3*) of section 7 of the Act so as to allow Government to make such appointments.

Under the proviso to section 12 of the Bombay Housing Board Act, 1948, the appointment of Secretary and the Housing Commissioner and any other officer whose salary exceeds Rs. 1,000 p. m. shall be subject to the previous approval of the Government. The intention underlying the proviso was that Government's previous approval should be obtained for appointments of Assistant Housing Commissioners also even if they drew an initial salary of rupees one thousand or less per mensem. This is not explicit from the present provision and therefore it is proposed to amend the proviso to section 12 of the Act.

In paragraph 11 of the Report of the Public Accounts Committee on the Appropriation Accounts of the Government of Bombay for the year 1948–49 and the Audit Report thereon, the Committee has expressed the view that budgets of such bodies as Boards and Corporations established by Government as also the annual report summarising their activities during the year including the financial results thereof should be statutorily required to be placed before the Legislature every year. The proposed amendments to sections 28 and 61 seek to implement the recommendation of the aforesaid Committee.

The arrears of rent in respect of the tenements of the Bombay Housing Board are over Rs. 4 lakhs. In paragraph 31 of the Report of the Public Accounts Committee on the Appropriation Accounts of the Government of Bombay for the year 1948–49 and the Audit Report thereon, the Committee had expressed the view that it was essential that vigorous steps should be taken to recover these arrears of rent, if necessary, by the enactment of suitable legislation. The Bombay Housing Board has taken all action possible to recover the arrears through suits and distress warrants. In spite of this, the arrears are growing especially because in some colonies of the Board, namely, Sion-Dharavi and I. R. B. S. D., Borivli, most of the tenants have stopped payment of rent altogether for the past several months. The Housing Board cannot manage its estates under the ordinary law like other private landlords, because the Housing Board's tenants are taken on the lottery system without too detailed check on their financial capacity to pay rents, and the estates which are raised by Government funds are of enormous proportions. The Board cannot, therefore, be compared with private landlords. Loans advanced by Government to the Bombay Housing Board for direct construction of tenements under the Housing programme of Government are repayable with interest charges to Government at regular intervals. The only revenues of the Board from which it would be able to repay Government loans are those accruing from monthly rents. If arrears of rent cannot be recovered regularly, the Board will be unable to repay Government

loans and interest thereon and ultimately public revenues would suffer. In the absence of any effective powers with the competent authorities of the Bombay Housing Board, early recovery of arrears is not possible. Besides, the Board also wants statutory powers of summary inquiry and eviction of unauthorised occupants so that it may be able to take quick and effective action against them. Filing of suits against unauthorised tenants involves a very lengthy process and a lot of revenue may also be lost. It is, therefore, necessary to arm competent authorities with effective powers of summary inquiry and eviction on the lines of the Central Act XXVII of 1950, namely, "The Government Premises (Eviction) Act, 1950."

Dated the 3rd July 1952.

G. D. TAPASE.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXVII OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 11th August 1952.)

A Bill to amend the Bombay Housing Board Act, 1948.

[Shri G. D. Tapase, M.L.A.]

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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BOMBAY ACT No. XXXII OF 1952—An Act to amend the Bombay Housing Board Act, 1948	142-145

The following Act of the Bombay Legislature having been assented to by the President on the 29th November 1952 is hereby published for general information.

J. R. DHURANDHAR,

Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXII OF 1952.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 6th December 1952.)

An Act to amend the Bombay Housing Board Act, 1948.

Bom. LXIX of 1948.

WHEREAS it is expedient to amend the Bombay Housing Board Act, 1948, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Housing Board (Amendment) Act, 1952. Short title.

Amendment of section 2 of Bom. LXIX of 1948.

2. In section 2 of the Bombay Housing Board Act, 1948, hereinafter referred to as the said Act,— Bom. LXIX of 1948.

(*1*) after clause (3), the following clause shall be inserted, namely :—

"(3A) 'Board premises' means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act ;" ;

(*2*) after clause (6), the following clause shall be inserted, namely :—

"(6A) 'competent authority' means any person authorised by the State Government by notification in the *Official Gazette* to perform the functions of the competent authority under Chapter V-A for such area as may be specified in the notification ;" ;

(*3*) after clause (10), the following clause shall be inserted, namely :—

"(10A) 'premises' means any building or part of a building and includes—

(*i*) gardens, grounds and out-houses, if any, appertaining to such building or part of a building, and

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;".

Amendment of section 7 of Bom. LXIX of 1948.

3. In section 7 of the said Act,—

(*1*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed ";

(*2*) in sub-section (*4*), after the words "the remuneration" the words ", if any," shall be inserted.

Amendment of section 12 of Bom. LXIX of 1948.

4. In section 12 of the said Act,—

(*1*) after the words "a Secretary," the words "one or more Assistant Housing Commissioners and " shall be inserted ;

(*2*) after the words "the Secretary" the words ", any Assistant Housing Commissioner " shall be inserted.

Amendment of section 28 of Bom. LXIX of 1948.

5. To section 28 of the said Act, the following shall be added, namely :—

"The programme, the budget and the schedule of the staff so sanctioned shall be laid before each House of the State Legislature as soon as may be after the programme is published."

6. After Chapter V of the said Act, the following Chapter shall be inserted, namely :— Insertion of new Chapter VA in Bom. LXIX of 1948.

"CHAPTER VA.

Power to evict persons from Board premises.

53A. (*1*) If the competent authority is satisfied,— Power to evict certain persons from Board premises.

(*a*) that the person authorised to occupy any Board premises has, whether before or after the commencement of the Bombay Housing Board (Amendment) Act, 1952,— Bom. XXXII of 1952.

(*i*) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the permission of the Board, the whole or any part of such premises, or

(*iii*) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(*b*) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

(*2*) If any person refuses or fails to comply with an order made under sub-section (*1*), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(*3*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*iii*) of clause (*a*) of sub-section (*1*), within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (*2*), cancel its order made under sub-section (*1*) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

53B. (*1*) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (*i*) by post or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the same within such time, not less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue. Power to recover rent or damages as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

Rent to be recovered from deductions from salary or wages in certain cases.

53BB. (*1*) Without prejudice to the provisions of section 53A, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(*2*) On the execution of such agreement, the State Government or a local authority, as the case may be, shall, if so required by the Board by requisition in writing, make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

Appeal.

53C. (*1*) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within one month of the date of the service of the notice under section 53A or section 53B, as the case may be, prefer an appeal to the State Government:

Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(*3*) Where an appeal is preferred under sub-section (*1*), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

Bar of jurisdiction of Civil Courts.

53D. No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter."

Amendment of section 61 of Bom. LXIX of 1948.

7. To section 61 of the said Act, the following shall be added, namely :—

"Every such report shall be laid before each House of the State Legislature as soon as may be after it is published."

Amendment of section 66 of Bom. LXIX of 1948.

8. In section 66 of the said Act, in sub-section (*2*), after clause (*h*), the following clauses shall be inserted, namely :—

"(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A;

(*hc*) the manner in which damages under section 53B may be assessed;

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"70A. Any person who obstructs the lawful exercise of any power conferred by or under Chapter VA shall, on conviction, be punished with fine which may extend to one thousand rupees."

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